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AMENDED IN SENATE JUNE 2, 2010

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AMENDED IN ASSEMBLY MARCH 11, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1644**

**Introduced by Assembly Member Nielsen**

**(Principal coauthor: Assembly Member Arambula)**

**(Coauthors: Assembly Members Blakeslee, Block, Blumenfield, Bradford, Conway, Devore De Vore, Fletcher, Gilmore, Hagman, Harkey, Ma, Niello, and Norby)**

**(Coauthors: Senators Aanestad, Cox, Denham, Maldonado, and Runner)**

January 12, 2010

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~~An act to add Chapter 4.5 (commencing with Section 7250) to Division 7 of the Health and Safety Code, relating to cremated remains. An act to amend Section 942 of, and to add Sections 951, 952, 953, and 954 to, the Military and Veterans Code, relating to veterans.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 1644, as amended, Nielsen. Veterans' remains.

Existing law regulates the custody, control, and interment of human remains.

This bill would allow prescribed entities in possession of the cremated remains of a veteran, upon the request of a veterans' ~~service~~ *remains* organization, as defined, to release specified information and remains

to a veterans' ~~service~~ *remains* organization *for the purpose of interment* if certain conditions are met. The bill would require the veterans' ~~service~~ *remains* organization to take all reasonable steps to inter remains received. The bill would also exempt from civil liability, except for willful or wanton misconduct, an entity that releases information or remains after meeting the specified conditions and exempt from negligence a veterans' ~~service~~ *remains* organization that receives and inters remains if the veterans' ~~service~~ *remains* organization does not know or have reason to know that the remains were not released in compliance with the above conditions.

*Existing law requires the board of supervisors of each county to designate an honorably discharged soldier, sailor or marine in the county who has served in or with the army or navy of the United States who shall cause to be decently interred the body of any veteran or widow of a veteran who dies in the county without having sufficient means to defray the expenses of burial, except as otherwise provided.*

*This bill would require the board of supervisors of each county to designate an honorably discharged veteran of the United States military or a member of a veterans' remains organization who shall cause to be decently interred the body of any veteran or spouse or eligible dependent of a veteran as defined by the United States Department of Veterans Affairs for compensation purposes who dies in the county. This bill would encourage the board of supervisors of each county to designate personnel from a veterans' remains organization for that purpose. This bill would also require the specified entities to verify and inter unclaimed cremated remains of veterans in accordance with specified laws.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The heading of Article 2 (commencing with*  
2     *Section 940) of Chapter 5 of Division 4 of the Military and*  
3     *Veterans Code is amended to read:*

4  
5     Article 2. Burial of Veterans and Veterans' ~~Widows~~ *Dependents*

6  
7     *SEC. 2. Section 942 of the Military and Veterans Code is*  
8     *amended to read:*

942. The board of supervisors of each county shall designate an honorably discharged ~~soldier, sailor or marine in the county who has served in or with the army or navy of the United States and~~ veteran of the United States military or a member of a veterans' remains organization, as defined in Section 951, who shall cause to be decently interred the body of any veteran or ~~widow spouse or eligible dependent~~ of a veteran as defined by the United States Department of Veterans Affairs for compensation purposes who dies in the county. This section shall apply to all indigent, abandoned, or unclaimed veterans and dependents of veterans, including those deceased veterans and dependents of veterans without ~~having~~ sufficient means to defray the expenses of burial, other than moneys paid or due and payable by the United States, pursuant to the World War ~~adjusted compensation act~~ Adjusted Compensation Act.

SEC. 3. Section 951 is added to the Military and Veterans Code, to read:

951. (a) "Veteran status information" means the data required by the Department of Veterans Affairs to verify the status of a decedent as either a veteran or the dependent of a veteran for purposes of eligibility for burial in a national or state cemetery, including the person's name, service number, social security number, date of birth, date of death, place of birth, branch of the service, and military rank.

(b) "Veterans' remains organization" means any entity recognized by the Veterans Administration and the National Personnel Records Center as an organization authorized to verify and inter unclaimed cremated remains of American veterans, including a member or employee of that entity.

SEC. 4. Section 952 is added to the Military and Veterans Code, to read:

952. (a) A cemetery corporation or association, or other entity in possession of the cremated remains of a veteran or dependent of a veteran, shall, upon request of a veterans' remains organization and after verifying the status of the veterans' remains organization as an organization currently authorized by the Veterans Administration and the National Personnel Records Center or as an organization authorized by the local county board of supervisors to verify and inter unclaimed cremated remains of

1 American veterans, release veteran status information to the  
2 veterans' remains organization.

3 (b) The use or disclosure of veteran status information obtained  
4 by a veterans' remains organization pursuant to subdivision (a)  
5 shall be permitted only for the purpose of verifying veteran  
6 interment benefits of the deceased veteran or a dependent of a  
7 veteran with the Department of Veterans Affairs and shall not be  
8 used or disclosed for any other purpose.

9 (c) The cemetery authority, cemetery corporation or association,  
10 or other entity in possession of the cremated remains of a veteran  
11 or dependent of a veteran may, upon request of a veterans' remains  
12 organization and after verifying the status of the veterans' remains  
13 organization as an organization currently authorized by the  
14 Veterans Administration and the National Personnel Records  
15 Center or as an organization authorized by the local county board  
16 of supervisors to verify and inter unclaimed cremated remains of  
17 American veterans, release the cremated remains of the veteran  
18 or dependent of a veteran to a veterans' remains organization for  
19 the sole purpose of interment, subject to Section 943 and Sections  
20 7110 and 7208 of the Health and Safety Code, when all of the  
21 following conditions have been met:

22 (1) The veterans' remains organization has verified the  
23 interment benefits of the deceased veteran or dependent of a  
24 veteran with the Department of Veterans Affairs and provided  
25 documentation of the verification to the cemetery authority,  
26 cemetery corporation or association, or other entity that the  
27 decedent is a veteran or a dependent of a veteran eligible for burial  
28 in a national or state cemetery.

29 (2) The veterans' remains organization has made a reasonable  
30 effort to locate the agent or family member who has the right to  
31 control the cremated remains of the veteran or dependent of a  
32 veteran.

33 (3) The veterans' remains organization has provided notice to  
34 all known agents or family members who have the right to control  
35 the cremated remains of the veteran or dependent of a veteran of  
36 the veteran's remains organization's intent to claim the cremated  
37 remains of the veteran or dependent of a veteran for the purpose  
38 of providing a proper burial of the cremated remains of the veteran  
39 or dependent of a veteran in accordance with Section 943 and  
40 Sections 7110 and 7208 of the Health and Safety Code.

1 (4) An agent or family member who has the right to control the  
2 cremated remains of the veteran or dependent of a veteran has  
3 made no attempt to claim the cremated remains.

4 (5) The cremated remains have been in the possession of the  
5 cemetery authority, cemetery corporation or association, or other  
6 entity for a period of at least one year.

7 (d) The cemetery authority, cemetery corporation or association,  
8 or other entity that releases veteran status information or cremated  
9 remains of the veteran or dependent of a veteran pursuant to this  
10 section shall not be subject to civil liability, except for gross  
11 negligence, if all of the conditions of this section are met.

12 SEC. 5. Section 953 is added to the Military and Veterans  
13 Code, to read:

14 953. (a) A veterans' remains organization shall take all  
15 reasonable steps to inter the cremated remains of a veteran or  
16 dependent of a veteran received in accordance with this article.

17 (b) A veterans' remains organization that receives and inters  
18 the cremated remains of a veteran or dependent of a veteran  
19 pursuant to this article shall not be liable for negligence if the  
20 veterans' remains organization does not know or have reason to  
21 know that the cremated remains of the veteran or dependent of a  
22 veteran were not released by the cemetery authority, cemetery  
23 corporation or association, or other entity in compliance with  
24 subdivisions (a) and (c) of Section 952.

25 SEC. 6. Section 954 is added to the Military and Veterans  
26 Code, to read:

27 954. The board of supervisors of each county is encouraged  
28 to designate personnel from a veterans' remains organization, as  
29 defined in Section 951, to fulfill the role created in Section 942.

30 SECTION 1. ~~Chapter 4.5 (commencing with Section 7250) is~~  
31 ~~added to Division 7 of the Health and Safety Code, to read:~~

32  
33 ~~CHAPTER 4.5. CREMATED REMAINS OF VETERANS~~  
34

35 ~~7250. For purposes of this chapter, the following definitions~~  
36 ~~shall apply:~~

37 (a) ~~"Information" means the data required by the Department~~  
38 ~~of Veterans Affairs to verify the status of a person as either a~~  
39 ~~veteran or the dependent of a veteran for purposes of eligibility~~  
40 ~~for burial in a national or state cemetery, including the person's~~

1 name, service number, social security number, date of birth, date  
2 of death, place of birth, branch of the service, and military rank.

3 (b) “Veteran” shall have the same meaning as it is defined in  
4 Section 940 of the Military and Veterans Code.

5 (c) “Veterans’ service organization” means an association or  
6 other entity organized for the benefit of veterans that has been  
7 recognized or chartered by the United States Congress, including,  
8 but not limited to, the Disabled American Veterans, the Veterans  
9 of Foreign Wars, the American Legion, the Legion of Honor, and  
10 the Vietnam Veterans of America. The term also includes a member  
11 or employee of an eligible nonprofit veterans’ corporation,  
12 association, or entity that specifically deals with verification and  
13 veterans’ burials.

14 7251. (a) A cemetery authority, cemetery corporation or  
15 association, or other entity in possession of the cremated remains  
16 shall, upon request of a veterans’ service organization, release to  
17 a veterans’ service organization information required to verify a  
18 person’s status as a veteran or the dependent of a veteran. The  
19 entity may release the remains to the veterans’ service organization  
20 for the purpose of interment when all of the following conditions  
21 have been met:

22 (1) The veterans’ service organization has verified that the  
23 person is a veteran or the dependent of a veteran, eligible for burial  
24 in a national or state cemetery.

25 (2) The entity or a veterans’ service organization has made a  
26 reasonable effort to locate the agent or family member who has  
27 the right to control the remains.

28 (3) An agent or family member who has the right to control the  
29 remains has made no attempt to claim the remains.

30 (4) The remains have been in the entity’s possession for a period  
31 of at least one year.

32 (b) The cemetery authority, cemetery corporation or association,  
33 or other entity that releases the information or remains pursuant  
34 to this section shall not be subject to civil liability, except for  
35 willful or wanton misconduct, if the conditions of this section are  
36 met.

37 7252. (a) A veterans’ service organization shall take all  
38 reasonable steps to inter remains received in accordance with this  
39 chapter.

1     ~~(b) A veterans' service organization that receives and inters~~  
2     ~~remains pursuant to this chapter shall not be liable for negligence~~  
3     ~~if the veterans' service organization does not know or have reason~~  
4     ~~to know that the remains were not released in compliance with~~  
5     ~~Section 7251.~~

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